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SUBJECT: PHILIPPINE ECONOMIC NEGOTIATIONS

1. FOLLOWING IS SUMMARY OF FIRST WEEK OF U.S.-PHILIPPINE
ECONOMIC NEGOTIATIONS, MARCH 29-APRIL 5. TALKS RECESSED,
TENTATIVELY UNTIL APRIL 9.

2. AT INITIAL SESSION MARCH 29 EACH SIDE OUTLINED BASIC
POSITIONS. U.S. INDICATED INTENT PROCEED ON TRADE IN
ACCORDANCE WITH US TRADE ACT AND TOKYO DECLARATION OF
1973, NOTED U.S. OFFER LIST ALREADY TABLED IN GENEVA. RE
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INVESTMENT U.S. STRESSED DEVELOPMENT BENEFITS OF PROVIDING

ASSURANCES ON RULES OF GAME FOR INVESTORS.

3. PHILIPPINE CHAIRMAN (VEGA) REFERRED TO VARIOUS U.S.-PHILIPPINE NEGOTIATIONS, INCLUDING RECENT AGREEMENT ON TAX TREATY AND APPROACHING BASE TALKS. HE STRESSED: (A) IMPORTANCE OF RESPONDING TO PHILIPPINE DEVELOPMENT NEEDS; (B) DESIRE TO MAINTAIN MARKETS ADVERSELY AFFECTED BY PHILIPPINE EXCLUSION FROM GSP; (C) INTEREST IN TARIFF REDUCTIONS ON COCONUT OIL AND MAHOGANY PLYWOOD TO HARMONIZE WITH RATES ON COMPETITIVE ITEMS; (D) INTENTION TO ESTABLISH MECHANISM TO DEAL WITH IRRITANTS IN ECONOMIC RELATIONS. HE EXPRESSED DISAPPOINTMENT OVER "EXCLUSION" OF MAHOGANY PLYWOOD FROM US

TP OFFER LIST, AND CITED PHILIPPINE ACCOMMODATIONS OF U.S. INTERESTS FOLLOWING EXPIRATION OF LAUREL-LANGLEY AGREEMENT.

4. PHILIPPINE PANEL ALSO DISTRIBUTED A DRAFT "TRADE AGREEMENT COVERING ECONOMIC RELATIONS BETWEEN THE PHILIPPINES AND THE UNITED STATES". SAID AWAITED INSTRUCTIONS ON OFFER LIST AND INVESTMENT.

5. MARCH 30 MEETING FOCUSSED ON DRAFT TRADE AGREEMENT AND U.S. OFFER LIST. PHILIPPINE SIDE STRESSED "DECISIVE" IMPORTANCE OF GENERAL WAIVER OF GSP COMPETITIVE NEED LIMITS, AND PHILIPPINE DESIRE FOR REDUCTION OF TARIFFS ON PLYWOOD ONE QUARTER INCH AND ABOVE, ARGUING MOST OF THEIR EXPORTS WERE IN THIS CATEGORY.

6. U.S. PANEL PRESENTED INITIAL OBSERVATIONS ON PHILIPPINE DRAFT TRADE AGREEMENT, NOTING THAT IT WAS DIFFICULT TO ENVISION HOW TRADE AGREEMENT COULD COVER FULL RANGE OF ECONOMIC RELATIONS. THEY EXPLAINED LEGAL AND POLICY LIMITS INVOLVED IN GSP WAIVER ISSUE, AND DESCRIBED BACKGROUND TO OFFER ON PLYWOOD, STRESSING SENSITIVITY OF U.S. SOFTWOOD PLYWOOD INDUSTRY TO COMPETITION FROM THICKER GRADES OF LAUAN PLYWOOD. THEY ALSO OUTLINED STAGING REQUIREMENTS OF TRADE ACT AND NOTED THAT NEGOTIATIONS ON COCONUT OIL COULD AIM AT ZERO DUTY BUT THAT THIS WOULD DEPEND ON OBTAINING SATISFACTORY COUNTER OFFERS. U.S. CONFIDENTIAL

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SIDE STRESSED NEED TO RECEIVE PHILIPPINE OFFERS AND TO REGARD ECONOMIC NEGOTIATIONS AS PACKAGE IN WHICH TRADE ISSUES WOULD BE A PART.

7. ON MARCH 31, JUST BEFORE SCHEDULED TRADE SESSION, VEGA REQUESTED PRIVATE SESSION WITH U.S. CHAIRMAN. IN THAT SESSION VEGA PRESSED STRONGLY FOR IMMEDIATE U.S. COMMITMENT TO BLANKET GSP WAIVER AS PREREQUISITE FOR CONTINUING

TALKS. IN DOING SO HE CLAIMED HE WAS OPERATING ON INSTRUCTIONS FROM PRESIDENT MARCOS RELAYED THROUGH SECRETARY VIRATA.

8. EDMOND, WITH STR REP, AND OTHERS, EXPLAINED LIMITS OF U.S. LAW AND POLICY ON WAIVER, INDICATING U.S. CONTINUED TO FEEL THERE WERE NUMEROUS ISSUES THAT COULD BE DISCUSSED. AT FURTHER INFORMAL MEETING FOLLOWING DAY IT WAS AGREED THAT TALKS WOULD CONTINUE ON BASIS THAT GOP WOULD PRESENT TRADE AND INVESTMENT PROPOSALS, AND U.S. WOULD CONSIDER ON HYPOTHETICAL BASIS TYPE OF GSP WAIVER THAT MIGHT BE CONSIDERED UNDER LAW. IT WAS ALSO AGREED THAT TALKS WOULD BE CONDUCTED ON BASIS OF "SIMULTANEITY" WHEREBY ALL OFFERS WOULD BE CONSIDERED IN CONCERT.

9. IN APRIL 1 SESSION U.S. PROVIDED FURTHER DATA ON PLYWOOD OFFER, CONFIRMING AS BEST ESTIMATE EARLIER INDICATION THAT U.S. OFFER FOR ONE QUARTER INCH AND UNDER COVERED ABOUT 90 PER CENT OF ALL PHILIPPINE PLYWOOD EXPORTS TO U.S. (ABOUT 80 PER CENT IN ONE QUARTER INCH CATEGORY). PHILIPPINE PANEL PRESENTED OFFER LIST, WHICH CONSISTED OF PROPOSAL TO BIND EXISTING DUTIES ON 12 ITEMS WITH TOTAL TRADE VALUE ABOUT USDOL 35 MILLION.

10. U.S. SIDE EXPRESSED DISAPPOINTMENT WITH PHILIPPINE OFFERS, NOTED DISCREPANCY WITH U.S. OFFERS WORTH ABOUT USDOL 360 MILLION, AND FACT THAT MANY BINDINGS OFFERED BY GOP AT 70-100 PER CENT DUTY. DISTRIBUTED U.S. REQUEST LIST INCLUDING 93 ITEMS VALUED ABOUT USDOL 198 MILLION.

11. PHILIPPINE SIDE DISTRIBUTED TWO ADDITIONAL LISTS: (A) ITEMS REQUESTED FOR ADDITION TO GSP, AND (B) FURTHER REQUESTS FOR MFN TARIFF CUTS. U.S. SIDE NOTED THAT GSP CONFIDENTIAL

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IS A UNILATERAL, NON-RECIPROCAL, NON-NEGOTIABLE GRANT AND IN CONTRAST WITH SOME OTHER COUNTRIES U.S. HAD NOT KEPT IN RESERVE ITEMS FOR LATER INCLUSION ON A NEGOTIATED BASIS; BUT AGREED TO REVIEW PHILIPPINE REQUESTS.

12. PHILIPPINE SIDE ALSO PROVIDED DRAFT "INVESTMENT TREATY BETWEEN REPUBLIC OF PHILIPPINES AND UNITED STATES".

13. ON APRIL 2 U.S. SIDE TABLED, "ON HYPOTHETICAL BASIS" A PAPER INDICATING TERMS UNDER WHICH GSP WAIVER MIGHT BE CONSIDERED. IN PRESENTING IT U.S. SIDE STRESSED THAT IT RAISED MANY POLICY PROBLEMS FOR US, HAD NOT BEEN CLEARED BY POLITICAL LEVEL, AND THAT SUCH CLEARANCES COULD NOT BE SOUGHT UNTIL SATISFACTORY OVERALL ECONOMIC PACKAGE DEVELOPED. TEXT AS FOLLOWS:

QUOTE HYPOTHETICAL ARTICLE III

THE UNITED STATES WILL REVIEW ANNUALLY THOSE PRODUCTS FROM THE PHILIPPINES EXCLUDED FROM GSP BY THE REQUIREMENTS OF SECTION 504 (C)(1) OF THE TRADE ACT OF 1974. THAT REVIEW WILL BE CONDUCTED ON AN ARTICLE-BY-ARTICLE BASIS AND SHALL TAKE INTO ACCOUNT THE REQUIREMENTS OF U.S. LAW AND POLICY APPLIED IN THE ADMINISTRATION OF THE GSP SYSTEM, AND INTERNATIONAL OBLIGATIONS. SUBJECT TO THOSE REQUIREMENTS AND OBLIGATIONS AND WITHIN THE LIMITS OF THE DISCRETION AVAILABLE THE UNITED STATES SHALL ENDEAVOR TO ACCORD TO PRODUCTS OF THE PHILIPPINES TREATMENT NO LESS FAVORABLE THAN THAT ACCORDED LIKE PRODUCTS OF ANY THIRD COUNTRY DETERMINED TO BE A DEVELOPING COUNTRY FOR PURPOSES OF THE GENERALIZED SYSTEM OF PREFERENCES FOR DEVELOPING COUNTRIES

AUTHORIZED PURSUANT TO U.S. LAWS. THE RESULTS OF THIS REVIEW WILL BE LIMITED TO THE SPECIFIC ARTICLES (TARIFF ITEMS) IN QUESTION AND WILL NOT IMPACT ON OTHER ARTICLES OF THIS TREATY. END QUOTE.

14. PHILIPPINE SIDE THEN RECESSED TEMPORARILY AND RETURNED WITH COUNTER PROPOSAL UNDER WHICH U.S. WOULD BE COMMITTED TO WAIVER ON 20 ITEMS (TO BE IDENTIFIED) AND WOULD PROVIDE BEST EFFORTS ON OTHER ITEMS IN FUTURE. (ACCORDING CONFIDENTIAL

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TO DATA PROVIDED PHILIPPINES INFORMALLY, THEIR PRESENT EXCLUSIONS INVOLVE NINE ITEMS, INCLUDING SUGAR VALUED AT USDOL 219 MILLION FOR 1975 AND EIGHT OTHERS TALLING ABOUT USDOL 32 MILLION.)

15. APRIL 5 DISCUSSION COVERED INVESTMENT AND TRADE ISSUES. PHILIPPINE SPOKESMAN (DEGUZMAN) EXPLAINED THAT GOP REMAINED COMMITTED TO MFN STANDARD ON INVESTMENT, AND DRAFT TREATY PREPARED ON THAT BASIS.

16. U.S. SPOKESMAN (RICHARD SMITH) STATED MFN NOT RELEVANT TO INVESTMENT PROBLEMS IN PHILIPPINES, NOT REGARDED BY U.S. AS ADEQUATE PROTECTION FOR INVESTORS, AND WOULD CONFLICT WITH U.S. NETWORK OF TREATIES. HE STRESSED SIGNIFICANCE OF COMPROMISE OFFERED IN "NON-DISCRIMINATORY" LANGUAGE TABLED JULY 1974, AND TABLED REVISION OF ARTICLE 13 OF DRAFT TREATY, ADDING PROVISIONS PERMITTING PHASED "FILIPINIZATION" AS ENTRY REQUIREMENT, AND SPECIFYING TYPES OF DISCRIMINATORY INCENTIVES ACCEPTABLE, USING TAX TREATY FORMULA. SMITH OBSERVED U.S. COULD MAKE FURTHER EFFORTS AT ACCOMMODATING TO STATUS QUO, WITH EXCEPTION OF AREAS OF CURRENT CONCERN, SUCH AS: A) ANTI-DUMMY LAW

RESTRICTIONS ON MANAGEMENT; B) LAND LEASE UNCERTAINTIES; C) DISCRIMINATORY TARIFF ON ACETATE YARN; D) PD 894 ON SHIPPING AND AVIATION; AND E) RETAIL TRADE AMBIGUITIES (NOTING THAT RULING CITED MANILA 4511 IS NOT PART OF LAW). HE REGRETTED PHILIPPINE DRAFT'S OMISSION OF PROVISIONS ON DEFINITION OF RETAIL TRADE, SHIPPING, AND PROTECTION OF INDUSTRIAL AND INTELLECTUAL PROPERTY. HE NOTED DISTINCTION BETWEEN RULES FOR ENTRY AND PROTECTION AFTER ENTRY.

17. PHILIPPINE PANEL OFFERED BRIEF EXPLANATION ON SOME ISSUES, AND NOTED PRESENTATION FOR FURTHER STUDY. INVESTMENT SESSION CONCLUDED PENDING PHILIPPINE ABILITY TO CONDUCT FURTHER DISCUSSION ON MFN-NON-DISCRIMINATION ISSUE.

18. IN SUBSEQUENT DISCUSSION ON TRADE, PHILIPPINE CHAIRMAN HINTED AT POSSIBLE BROADENING OF TRADE OFFERS BUT SAID HE NOT PERMITTED TO PROPOSE ALTERNATIVE TO LIST TABLED

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APRIL 1, AND THAT NO FURTHER NEGOTIATION POSSIBLE UNTIL U.S. MADE COMMITMENT ON WAIVER. U.S. INSISTED ON HAVING SATISFACTORY PACKAGE, INCLUDING TRADE OFFERS AND INVESTMENT PROTECTION, BEFORE WAIVER COULD BE REFERRED TO POLITICAL LEVEL FOR DECISION.

19. NEGOTIATIONS RECESSED, WITH NEXT SESSION TENTATIVELY SCHEDULED FOR APRIL 9. KISSINGER

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